

## Staff Report

<b>Case:</b>	9-54-06W
<b>Location:</b>	9015 Preston Highway
<b>Owner</b>	<b>RKM Holdings, LLC</b>
<b>Applicant:</b>	<b>RKM Holdings, LLC</b>
<b>Engineer:</b>	<b>Richard Matheny</b>
<b>Area:</b>	<b>1.08 Acres</b>
<b>Form District:</b>	Neighborhood
<b>Zoning District:</b>	R-5 to OR-3
<b>Existing Use:</b>	Medical office & residential
<b>Proposed Use:</b>	Office
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24—Madonna Flood
<b>Case Manager:</b>	Stephen A. Lutz, AICP

**Request** Change in zoning from R-5 Single-Family Residential to OR-3 Office Residential and a waiver to omit the required perimeter landscaping buffer and variances to permit parking to encroach into required side yards on property located at 9015 Preston Highway (Tax Block 792, Lot 44), containing 1.08 acres and being in Louisville Metro.

**Staff Recommendation** Staff recommends **APPROVAL** of the zoning change request, waivers and development plan, along with the associated binding elements contained within this report.

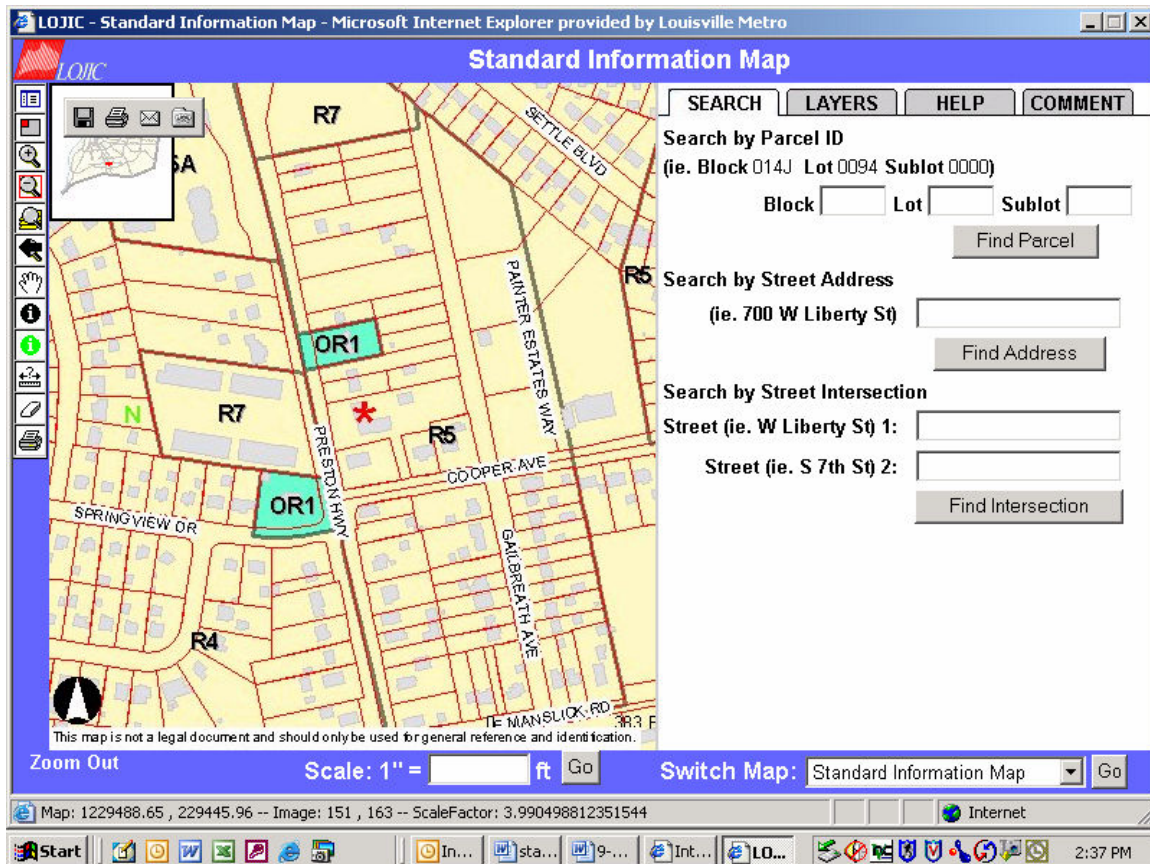
### **Case Summary / Background** ***Summary***

The applicant proposes to rezone the property to bring it into conformance with the already established use, an office. The structure and paving exist and have for many years. The site was occupied by many years with a medical office (with the doctor residing on premises), and the applicant purchased the property and now wishes to bring the zoning into conformance with the established use. The existing structure is 4,072 square foot. The structure is currently vacant.

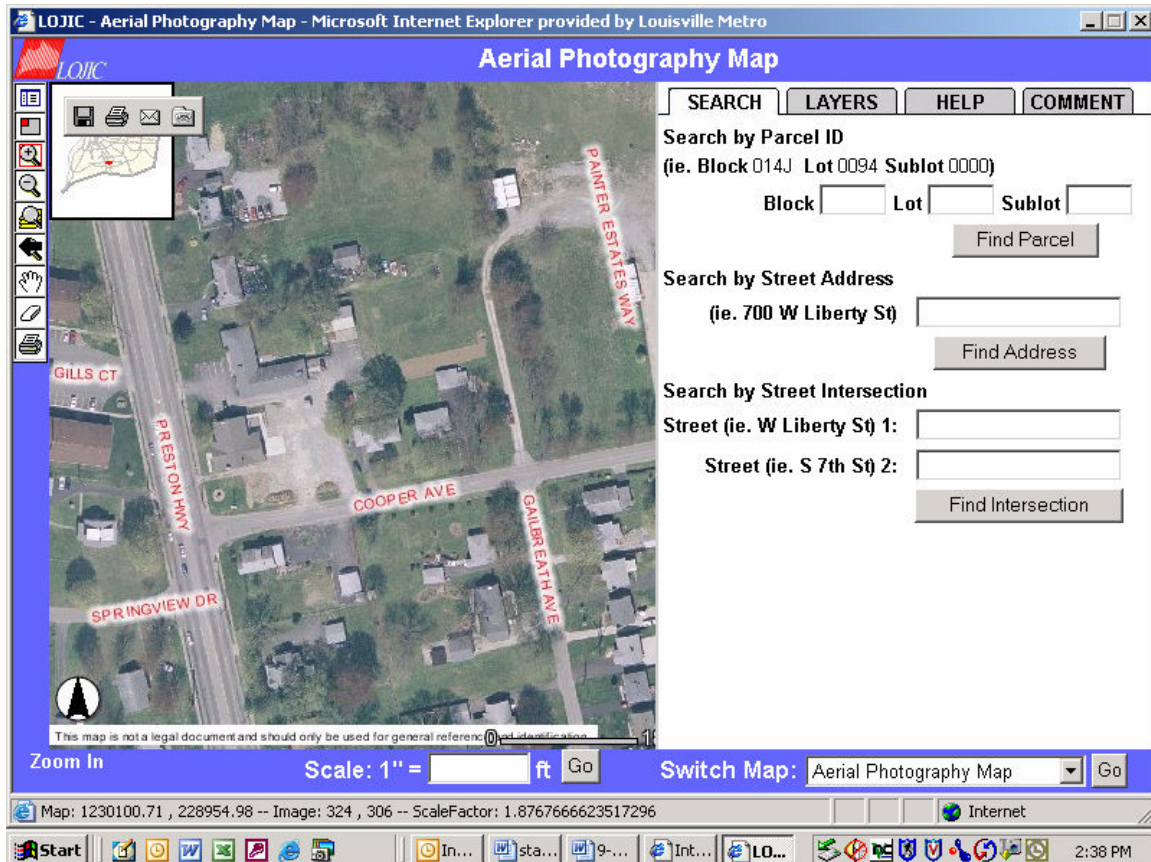
## Site Context

The site fronts on Preston Highway. The site is flat, with no topographic constraints. To the north and east is R-5 single-family residential property. Also to the north is located OR-1 Office/residential zoning which was approved under docket 9-22-02. To the south is R-5 single-family residential property, developed with the Okolona Women's Club. To the west is R-7 Multi-family residential and OR-1, which was rezoned under 9-66-02.

Here is a zoning map of the site:



Below is an aerial view of the site:



### ***Land Use / Zoning District / Form District***

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject</b>			
<b>Existing</b>	Vacant office & residence	R-5	N
<b>Proposed</b>	Office	OR-3	N
<b>Surrounding</b>			
<b>North</b>	Single-family residential & office	R-5, OR-1	N
<b>South</b>	Okolona Woman's Club & single-family residential	R-5	N
<b>East</b>	Single-family residential	R-4	N
<b>West</b>	Multi-family residential & Office	R-7 & OR-1	N

### ***Background***

There have been no previous zoning actions on this site.

## **Project History**

<b>Project History</b>	<b>Date</b>	<b>Issues addressed / discussion / changes to proposal</b>
Project submittal	10/2/06	
Site Inspection Committee	11/3/06	The committee was concerned cleaning the property up and providing a proper handicap ramp.
LD&T review	11/9/06/06	Committee reviewed renderings, and landscaping.
Public hearing	1/4/07	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

## **Site Inspection Comments:**

Committee had concerns about the site to the north. The committee had questions about the appearance of the property and requested the handicap ramp be improved to ADA standards. The committee felt the use was already established, and that this use is compatible with the area.

## **Staff Findings**

1. Staff finds that the land use is appropriate for the site, and that the rezoning is consistent with the Comprehensive Plan because the use has been established for many years, and the adjoining use to the south is a private club, and that there have been office conversions in the area in the past recent years. (guidelines noted below).
2. Staff finds that the proposed screening and buffering is appropriate and sufficient to screen the site from adjacent land uses.
3. Staff finds that the existing structure will remain unchanged, and is residential in appearance. The Site Inspection Committee determined that the existing structure is of a mass and scale consistent with the established pattern of development in the area. The applicant agreed at Land Development and Transportation Committee to provide the ADA compliant handicap ramp.

*Relationship to Comprehensive Plan - Cornerstone 2020 Plan Elements:*

**Community Form:** The site is in the Neighborhood form district which supports a wide variety of low intensity non-residential uses, including offices, if the infrastructure is in place to support the development and the development is part of an activity center.

The proposed office on this lot is already established and has been for many years. Additionally, there is other office development (involving conversion of single-family residential houses) to the north and west.

In terms of access, the site has vehicular access to both Preston Highway and to Cooper Avenue. There is a sidewalk existing along the Preston Highway frontage. (1.B.3, 2.4, 2.5, 2.7, 3.1, 3.2, 3.21, 3.22, 3.24, 9.1)

In terms of site design, the applicant should present photos or renderings for review by the Planning Commission to address the following guidelines. (3.1, 3.9)

**Mobility/Transportation:** Currently the site has an entrance on Preston Highway and Cooper Avenue. The design of the entrance and the parking lot, as well as the existing sidewalk, meets the requirements of the Land Development Code. (3.6, 7.1, 7.2, 7.3, 7.4, 7.6, 7.9, 9.1, 9.2)

**Environmental:** There are no concerns in regard to topography.

*Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)*

1. guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

**WAIVERS:**

The applicant has requested the following waiver: to reduce the LBA adjacent to the Okolona Women's Club to the south, and the single-family residential to the north and south. In addition, a waiver is needed for the LBA along Preston Highway to be less than 10 feet.

***Waivers summary***

Location	Requirement	Request	Waiver
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<b>Preston Highway</b>	10'	5'	5'
<b>South property line (Okolona Woman's Club)</b>	15'	0'	15'
<b>South property line Single-family residential</b>	15'	5'	10'
<b>North Property line</b>	15'	2'	13'

**Conditions to be met to grant the waiver:**

1. The waiver will not adversely affect property owners.
2. The waiver will not violate the guidelines of the Comprehensive Plan.
3. The extent of the waiver is the minimum necessary to afford relief to the applicant.

And:

The applicant has incorporated other design measures that exceed the minimums of the district, which compensate for non-compliance with the requirements to be waived.

Or:

That strict application of the provisions of the regulation would deprive applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

**Staff analysis:**

1. The site is currently fully developed in this configuration and has been for many years. The Okolona Woman's Club and this site share parking and access drive ways. To remove these paved areas to provide LBA would render much of the parking lot useless for both parties.
2. The existing houses to the south and north are screened by existing fences and vegetation. The use will be the same as already established, and no nuisances have been identified by either neighbor.

Staff recommends approval of the waivers, for the reasons listed above.

**Variances:**

The applicant requests a variance to allow the parking to be zero feet from the south side yard and five feet from Preston Highway.

***Variances summary***

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Front setback</b>	10'	5'	5'
<b>South side setback</b>	5'	0'	5'

The following criteria are used to evaluate the legitimacy of a variance. The applicant's justification statement is attached to this report:

- a.) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone;  
**The need for a variance from Preston Highway is due to a required 10' R/W dedication. The variance for the side yard setback is due to the existing conditions on the site.**
- b.) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;  
**Staff finds that if the variances are denied, these existing parking and maneuvering areas will have to be removed, thus creating a hardship on the applicant.**
- c.) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.  
**Staff finds that the variances are not the result of actions taken by the applicant.**

#### **Standard Binding Elements - Docket #9-54-06**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 4,072 square feet in size.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No

parking, material storage or construction activities are permitted within the protected area.

6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 16, 2006 Planning Commission meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3



of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

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Name

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Title

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Date